

1	UNITED STATES DISTRICT COURT	
2	DISTRICT OF NEVADA	
3	SHAWN BROCK,	Case No. 2:21-cv-01556-JAD-BNW
4		ORDER
5	v.	
6	CHAPLIN EVERAGE,	
7		
8	Defendant	
9		

10 **I. DISCUSSION**

11 On August 20, 2021, Plaintiff, an inmate in the custody of the Nevada Department
12 of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and
13 filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff’s complaint
14 and Plaintiff’s application to proceed *in forma pauperis* are both incomplete.

15 **Plaintiff's Complaint**

16 Upon review, the Court notes that Plaintiff did not sign the complaint. (ECF No. 1-
17 1). Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not
18 represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because
19 Plaintiff did not sign the complaint, the Court cannot consider it.

20 As such, the Court grants Plaintiff a **one-time extension** to submit a signed
21 amended complaint to the Court on or before **October 25, 2021**. If Plaintiff chooses to
22 file an amended complaint, he is advised that an amended complaint supersedes
23 (replaces) the original complaint and, thus, the amended complaint must be complete in
24 itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546
25 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should
26 file the amended complaint on this Court’s approved prisoner civil rights form, and it must
27 be entitled “First Amended Complaint.”

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1 **Plaintiff's Application to Proceed *in Forma Pauperis***

2 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
3 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
4 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
5 inmate must submit all three of the following documents to the Court:

- 6 (1) a completed **Application to Proceed *in Forma Pauperis* for Inmate**, this
7 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
8 page 3),
9 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
10 official (i.e. page 4 of this Court's approved form), and
11 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
12 **previous six-month period**.

13 Plaintiff has not signed his application to proceed *in forma pauperis* on page 3.
14 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis* (ECF
15 No. 1) without prejudice because the application is incomplete.

16 The Court will grant Plaintiff a **one-time extension** until on or before **October 25,**
17 **2021**, to file either a fully complete application to proceed *in forma pauperis* containing all
18 three of the required documents or pay the full \$402 filing fee. Absent unusual
19 circumstances, the Court will not grant any further extensions of time.

20 If Plaintiff does not file either a fully complete application to proceed *in forma*
21 *pauperis* with all three required documents or pay the full \$402 filing fee on or before
22 **October 25, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to
23 file a new case with the Court when Plaintiff is able to either acquire all three of the
24 documents needed to file a fully complete application to proceed *in forma pauperis* or
25 pays the full \$402 filing fee.

26 A dismissal without prejudice means Plaintiff does not give up the right to refile the
27 case with the Court, under a new case number, when Plaintiff is able to file a signed
28 amended complaint and has all three documents needed to submit with the application

1 to proceed *in forma pauperis*. Plaintiff may also choose not to file an application to
2 proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **October**
3 **25, 2021** to proceed with this case.

4 **II. CONCLUSION**

5 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send to
6 Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a
7 copy of his original complaint. (ECF No. 1-1). If Plaintiff files an amended complaint, he
8 should use the Court's approved form and he must write the words "First Amended" above
9 the words "Civil Rights Complaint" in the caption.

10 IT IS FURTHER ORDERD that if Plaintiff chooses to file a signed amended
11 complaint, Plaintiff will file the signed amended complaint to this Court on or before
12 **October 25, 2021**.

13 IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended
14 complaint on or before **October 25, 2021**, this case will be subject to dismissal without
15 prejudice for Plaintiff to refile the case with the Court, under a new case number, when
16 Plaintiff is able to file a signed amended complaint.

17 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
18 (ECF No. 1) is denied without prejudice to file either a new and fully complete application
19 to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee.

20 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
21 approved form application to proceed *in forma pauperis* by an inmate, as well as the
22 document entitled information and instructions for filing an *in forma pauperis* application.

23 IT IS FURTHER ORDERED that on or before **October 25, 2021**, Plaintiff will either
24 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
25 administrative fee) or file with the Court:

26 (1) a completed Application to Proceed in Forma Pauperis for Inmate on this
27 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
28 signatures on page 3),

1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
2 official (i.e. page 4 of this Court's approved form), and

3 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
4 **previous six-month period.**

5 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
6 application to proceed *in forma pauperis* with all three documents or pay the full \$402
7 filing fee for a civil action on or before **October 25, 2021**, this case will be subject to
8 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
9 number, when Plaintiff has all three documents needed to file a complete application to
10 proceed *in forma pauperis* or pays the full \$402 filing fee.

11 DATED: August 25, 2021.

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13 Brenda Weksler
14 United States Magistrate Judge

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